Supreme Court, U.S.
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(5)

No. 07-1359

In the

SUPREME COURT OF THE UNITED STATES

DR. JULIA McCAIN LAMPKIN-ASAM

Petitioner

vs.

VOLUSIA COUNTY SCHOOL BOARD, et. al.

Respondents

On Petition for Writ of Certiorari

U.S. Court of Appeals, Eleventh Circuit

PETITION FOR REHEARING

Julia McCain Lampkin-Asam, Ph.D.,J.D., Pro Se
3240 Tealwood Terrace
Deltona, Florida 32725
(386) 532 6270

TABLE OF CONTENTS

TABLES OF AUTHORITES	ii
ARGUMENT	1
Certification	11

TABLE OF AUTHORITIES

LIST OF CASES

Page

Brandon v. Holt, 105 S. Ct. 873 (1995). 3

Dade County School Board v. Miami Herald Pub. Co. 443 So. 2d 268 (DCA Fla. 3rd Dist., 1983). 9

Federico v. Board of Edcu. Of Public Schools of Tarrytown, 955 F. Supp. 194, 1977 WL. 37409, 114 Ed. Law Rep. 969, S.D.N.Y. January 23, 1997. 8

Friedlander v. Nims, 755 F. 2d 810, 811, 813-814, (11th Cir. 1985). 7

Gilder Lucas v. Elmore County Bd. Of Educ. 399 F. Supp. 2d 1267, 2005, WL 302824, 205 Ed. Law Rep., M.D. Ala., October 26, 2005. 8

Monell v. Department of Social Services of the City of New York 436 U.S. 658, L. Ed. 611, 98 S. Ct. 2018 (1978). 2

Motes v. Myers 810 F. 2d 1055 (11th Cir. 1987). 7

Solomon v. Walgreen Co., 975 F. 2d 1086, 1089, 5th Cir. 1992). 2

FEDERAL STATUTES

42 U.S.C. Section 1983 7

FLORIDA STATUTE

119.011(1) 9

ARGUMENT

Dr. Julia McCain Lampkin-Asam, Petitioner incorporates all writings in case 07 1359 into the Petition for Rehearing as if rewritten in said document.

Dr. Lampkin-Asam, a substitute teacher, noticed the sheriff office of the felony of the 13-year old student that sneaked up behind her and hit her in the back of her head with a weapon (metal) on August 24, 2005. The student was unprovoked since he had been absent and had not participated in school activities in the math class. Dr. Lampkin-Asam made the report on 9/14/05; however the next day she was terminated on 9/15/05 and received no notice of termination as a substitute teacher or any due process since she had been noticed by the doctor not to report for duty until both cardiologist and a neurologist had released her because of her injuries to report to work.

The school did not have right to terminate me just because I reported a crime of a violent act that has caused me permanent damages to my head and body because before I was hit by the student when I was 74 years old I had not had a concussion or any heart problems. Also, I did not have to walk with a cane before I was hit because I have loss my balance because I was hit in the head.

I am not the only teacher that has been damaged by a violent act by a student in a school which can not control weapons brought into the school since no screening was available for screening of weapons in the school which I was teaching at the time. See the Reasons to grant the Writ for Certiorari which I presented a news article in

another school which I had taught as a substitute teacher, Deland Middle School.

Also, in the legal literature it appears that school administrators attempt to create a controversy that are lies about a teacher so that the lower federal court can pretend a complaint is a "shotgun pleading" when in reality the teacher is telling the story as it happened.

This Mississippi case has an exception for a substitute teacher who is 74 years old who does not have a tenure contract because apparently the school does not like to give contracts to teachers 74 years old.

See Solomon v. Walgreen Co., 975 F. 2d 1086.1089. (5th Cir.) 1992.

> **"In the absence of employment contract, the Mississippi Supreme Court created two exceptions to this long standing rule on employee could have a cause of action for wrongful termination if he is fired, (1) refuseing to commit an illegal act or (2) or reporting his employer's illegal act."**

The jurisdiction in the federal court comes under 42 U.S.C. Section 1983 as found in Monell v. Department of Social Services of the City of New York. 436 U.S. 658, L. ED. 2d 611, 58 S. Ct. 2018 (1978) which held that local governments, municipals corporations, and school boards (Emphasis added) were "persons" subject to liability under Section 1983.

Also, see Brandon v. Holt, 105 S. Ct. 873 (1985) which held that a suit against a municipal official capacity is tantamount (Emphasis added) to suit against municipality.

the U.S. Constitutional Amendments, Fifth and Fourteenth and 42 U.S.C. Section 1983 because due process as to WRONGFUL TERMINATION was committed by Dr. Margaret A. Smith Superintendent and official of the Volusia County School Board Defendant.

The point is the school superintendent, Dr. Margaret Smith, of the Volusia County School Board who did not investigate the incident terminated Dr. Lampkin-Asam one day after she reported the felony of the student to the sheriff's office and was retaliation to the teacher.

Mississippi law by Appellate Court, Mississippi Supreme Court law is inconsistent concerning a person working on an hourly basis as a substitute teacher being wrongfully terminated without due process of life, liberty, or property as to the Fifth Amendment to U. S. Constitution when the administrator, Assistant Principal of Deltona Middle School, Mr. Mark Corruther, acting as an official of the Volusia County School Board committed a criminal act by covering-up a crime of felony by a 13-old student with a weapon hitting Dr. Lampkin-Asam, a substitute teacher, in the back of her head while she was teaching math at Deltona Middle School under the Control of Volusia County School Board.

Over 70 years old and the substitute teacher is often called on to write lesson plans and teach a vacancy (i.e. a teacher that does not show at the beginning of the year would be a substitute teacher that could teach without lesson plans but has the experience to make the lesson plans in the subject area which I had completed two weeks before I was hit in the head. I wrote the lesson plans for the marine biology class that I had to teach without even knowing the exact subject before I had to teach the class because of my biology background. I had a Rank I in biology and chemistry from the Department of Education in Florida for a number of years before I was 70 years old.

I taught for the Dade County Schools for a number of years at the Homestead Air Force on both the high school and college level since I taught a number of different science courses for the University of Tampa extension

including biology while I was also doing cancer research on lymphomas which was my life's work which was discussed in the Petition for Writ of Certiorari. I have established a non-profit cancer institute, Lampkin-Asam Cancer Institute, which I hope to receive money to build before I die, and I was working at the Volusia County School Board as a substitute teacher so I could finance the books on future cancer projects that should be completed to synthesize a lymphoma vaccine which I have worked on for a number of years. See the Petition Writ for Certiorari. I hope to hire a team of basic science in oncology and then work with M.D.'s to bring the basic science to applied science to help save people from dying like has been done in animals. I have written 31 publications in medical journals and as books also as mentioned.

I do not need the Volusia County School Board to prevent me from obtaining Cancer Grants because research on DNA and RNA and Vaccines are expensive and the answer to a cancer vaccine is the study of mutant proteins. I have met all the elements of Stigma plus of the Volusia County School Board writing false information as directly quoted in the Petition for Writ of Certiorari, and there was no "Shotgun pleading" because all I did was write what happened with the lying of the Volusia County School Board trying to cover up the violence by students. I need to have my name cleared up because until I was hit in the head I had an unblemished record as a teacher, (See Appendix E, the Orlando Sentinel).

The Volusia County School Board should be forced to remove the false information because I was hit in the head from my Personnel File so that I am not blocked from other cancer projects that I may undertake.

The new evidence was proved by the Volusia County School Board producing Dr. Lampkin-Asam's Personnel after approximately 3 years since the incident, which had the date of 9/15/05 as the date of termination as a substitute teacher who was applying for her retirement to have something to eat.

The termination of Dr. Lampkin-Asam because she was hit in the head by a student after she reported the incident to the sheriff's office and terminating her the next day has the appearance of retaliation. She reported the incident since the Assistant Principal, Mr. Corruthers was trying to cover- up the felony of a student by writing a false, defamatory, libelous and phantom teacher evaluation when he never came into her room to make any evaluation. The fax that was sent to the Personnel office

was sent on the same day the incident was reported on August 25, 2005 since no one of authority was available to report the incident on August 24, 2005 since she had to walk slow from the far- out portable where she was teaching math at the end of the school day.

See the sheriff record 05 31030 filed 9/14/05 in Deland Florida.

Dr. Gebel, a Defendant in the instant case, changed my medical record from 55 disabled to 0% for full duty when at the time I did not know I was already terminated since a cardiologist had not signed for me to return to duty since I had a 50% heart block as a result of the incident.

I did not know officially I had been terminated until I received the said document from the Personnel file showing the date to be 9/15/05. Therefore, this is new evidence that I was officially terminated as a substitute teacher On 9/15/05.

The false statements in Exhibit I1a are:. "Unsatisfactory performance of duties" for 4 days when incident happened the 3rd day and the 4th day Dr. Lampkin-Asam was transferred to the 7th grade.

The School should have to pay me forward for the next 10 years as well as from August 25, 2005 at the rate of a Ph.D. as a lump sum.

There is no excuse for the school not providing due process when firing a teacher because she was hit in the head by a student.

A teacher should not be put out of business when she is still capable of doing cancer research,

FEDERAL STATUTES

42 U.S.C. Section 1983

"Every person who, under color of any stature, ordinance regulation, custom, usuage, or any State or Territory . Subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

See Motes v. Myers, 810 F. 2d 855,

> "Civil rights plaintiff must establish both deprivation of right secured by the United States Constitution or federal laws and by defendant under color of state laws. 42 U.S.C. Section 1983."

See Friedlander v. Nims, 755 F. 2d 810 which states,

> "A complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that plaintiff can prove no set of facts in support of his claims which would entitled him to relief. Fed. Rules Civ. Proc. Rule 12(b)6 28 U.S.C.A.

Gilder-Lucas v. Elmore Count Board of Educ. 399 F. Supp. 2d 1267, 2005, WL 302824, 205 Ed. Law Rep., M.D. Ala., October 2005.

"To establish that a due process was protected liberty interests was violated by stigmatizing charges made as part of public employee's nonrenewal of employment, employee must show: (1) a false statement (2) of stigmatizing nature (3) attending government employee's discharge (4) was made public [published by school when Larry Lewis made cc: of false letter by Mr. Corruthers (Exhibit I1a) to Dr. Asam's Personnel file and then the press reviewed the public record and wrote Appendix E] (5) by the governmental Employer (6) without a meaningful..."

See Federico v. Board of Educ. Of Schools of Tarrytowns, 955 F.Supp. 1997 WL, 37409, 116 Ed. Law Rep. 969, S>.D.N.Y., January 23, 1997.

On Section 1983 claim based on due process with respect to allegedly defamatory statements of school officials, Plaintiff, teacher is required to prove: that officials published stigmatizing information which is at least arguably false; and as a result of stigma, he has been foreclosed from range of other employment opportunities. U.S.C.A. Const. Amend. 14 42 ...'

Mr. Corruthers abused Amendment One (1) to the U.S. Constititution by fabricating a teacher's evaluation that he knew would become a public record (F.S. 119.011(1) repugnant and infringing on Dr. Lampkin-Asam constitutional rights under the First, Fifth and Fourteenth Amendments to the U.S. Constitution that would stigmatize Dr. Lampkin-Asam severely for employment any place [SigmsaPlus elements were met, without
even investigating the incident since he wrote the false phantom teacher's evaluation the same day he was noticed of the incident.

FLORIDA STATUTE 119.011(1)[2]

> "Public records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business of any agency."

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[2] Dade County School Board v. Miami Herald Pub. Co. 443 So. 2d 268 (DCA of Fla. 3rd Dist., 1983) was cited showing personnel file of teacher is a public record.

The Supreme Court of the United States should review the instant case and grant the Petition for Rehearing. A Merit Brief should be requested.

A new document from an expert neurologist has also been received showing permanent damages to my head after being hit by a student who was just released from Detention.

CONCLUSION

Petition for Rehearing should be granted according to Federal Law presented, and Merits Brief requested to be written by me. In the alternative, the case should be remanded to the lower federal for a jury trial on the disputed issues.

Respectfully submitted,

Julia McCain Lampkin-Asam

Date

10/29/08

Julia McCain Lampkin-Asam, Ph.D.,J.D., Pro Se Petitioner
Substitute teacher and Cancer Scientist
3240 Tealwood Terrace
Deltona, Florida 32725
(386) 532 6270

Certification

Pursuant to Rule 44.2 this petition for rehearing is limited to intervening circumstances of a substantial or a controlling or to other substantial grounds not previously presented. It is restricted to grounds of Rule 44.2 not previously presented and that is presented in good faith and not for delay of the court.

Sincerely

Julia McCain Lampkin-Asam

Julia McCain Lampkin-Asam, Ph.D.,J.D.

DISTRIBUTION REQUEST FORM **PLAN #91087**
SCHOOL BOARD OF VOLUSIA COUNTY, FLORIDA

INSTRUCTIONS
This form must be completed by the employee participant and returned to the Employer. The Employer will sign this form and forward it to Bancor Administrative Services for processing.

Distributions are made immediately after the monthly valuation following the date your forms are returned.

An IRS Form 1099-R will be sent to you for tax purposes before the end of January of the year following the year of your distribution.

EMPLOYEE INFORMATION (Must be completed)

NAME: Julia L. Asam TELEPHONE: (386) 532 6270

ADDRESS: 3240 Teakwood Terrace

CITY, STATE, ZIP CODE: Daltona, Florida 32725

DATE OF BIRTH: 2/27/1931 SOCIAL SECURITY #: 007 34 5386

REASON FOR DISTRIBUTION (Mark one)

_____Termination of employment or eligibility _____Retirement __x__Disability _____Death*
*In the event of the participant's death, provide beneficiary's social Security Number and include a certified death certificate.

FORM OF DISTRIBUTION (Mark one)

*** READ THE ATTACHED IRS SPECIAL TAX NOTICE BEFORE SELECTING AN OPTION ***

__x__ **DISTRIBUTION IN CASH** (distribution is taxable in the year it is paid - 20% mandatory withholding will be sent to the IRS)

_____ **DIRECT ROLLOVER TO A TRADITIONAL IRA** (distribution is not currently taxable - provide IRA account number, custodian's name and address on an attached page)Please Note: Funds may not be rolled over to a Roth IRA.

_____ **DIRECT ROLLOVER TO AN ELIGIBLE QUALIFIED RETIREMENT PLAN** (distribution is not currently taxable - provide plan name, plan type, account number, trustee's name and address on an attached page).

SIGNATURE OF PARTICIPANT (Required)

Julia L. Asam
(Signature of Participant) 2/26/2007 (Date)

TO BE COMPLETED BY THE EMPLOYER

DATE OF TERMINATION OF ELIGIBILITY: 9-15-05

(Signature for Employer) 2-26-07 (Date)

SCHOOL BOARD OF VOLUSIA COUNTY - Personnel Services
P.O. BOX 2118 DELAND, FL 32721-2118

APPENDIX A

HEADACHE INSTITUTE
1936 Lee Road, Suite 137
Winter Park, FL 32789-7201
407-644-3737

Marc Irwin Sharfman, M.D., P.A.
Tax I.D. #59-3164891

Patient Name _____ Date _____

Anticipated Coverage _____ Current Balance on Account $ _____

Misc. Information _____ Amount to Collect Today $ _____

LOP ON FILE ___ YES ___ NO
Biofeedback visit # _____ of _____ Rx
Massage therapy visit # _____ of _____ Rx

___ 90801 (then) 90806 or 90876 # ____ of ____ Rx

[redacted]

Comments _____ 8-24-05

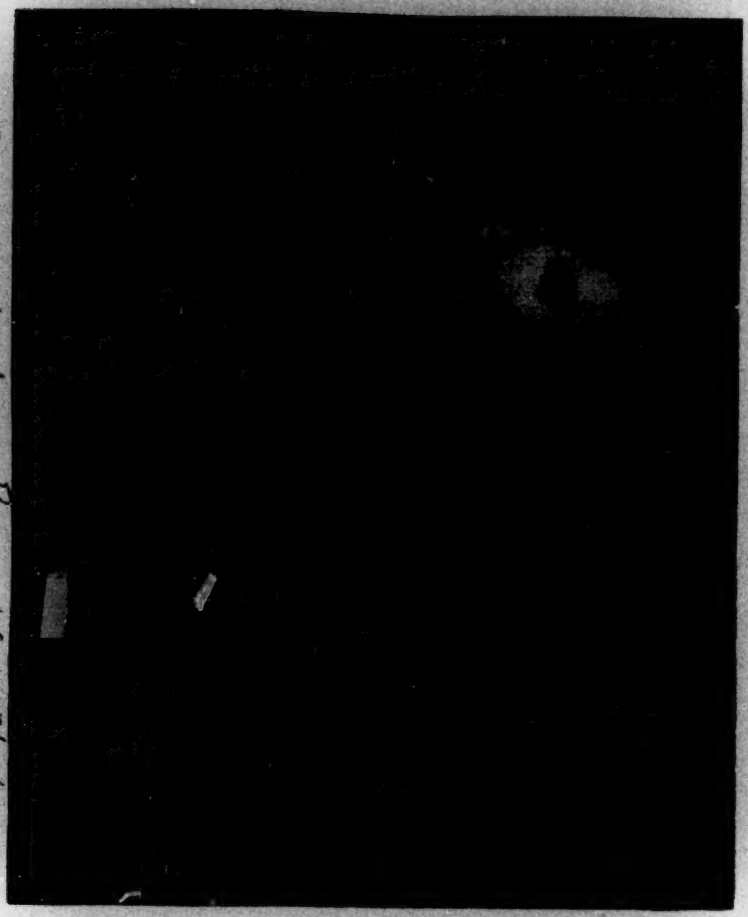
Physician Signature _____ Follow Up Date _____

Today's Charges	
Today's Payment	
Cash/Check #	
Paid on Acct	

APPENDIX B

Picture 1 D. Julia M. Lampkin - Asam. - 3 days after hit (8/27/05) on back of head on 8/24/05

APPENDIX C



D. Julie M. Lamplkin-Adam / Picture before 8/24/05
No Swelling of eyes

Julie McCain Lamplkin-Adam, Ph.D., J.D. (formerly Lamplkin-Gibbard)

BORN FEBRUARY 27, 193[illegible]

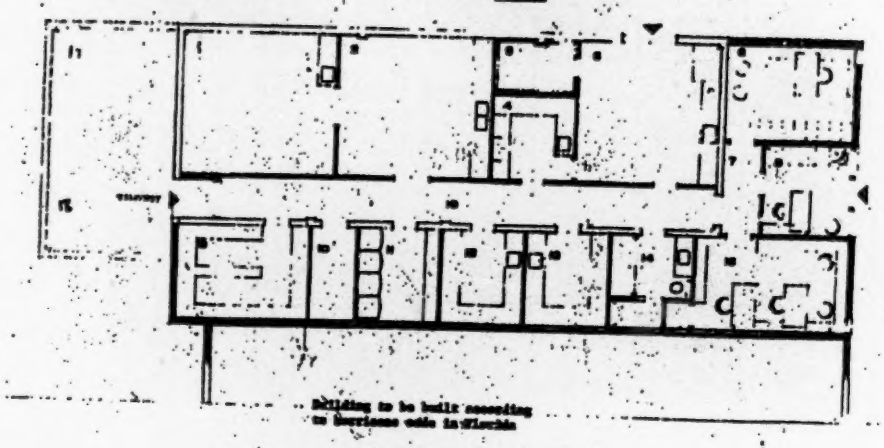
Picture 5

APPENDIX D

Picture 1 - May 23, 2006 lost her balance before picked up by ambulance to Central Florida Regional Hospital. Face hit concrete.

APPENDIX E

1 Biochemistry, RNA, DNA, Proteins, Automated sequencing machines Electrophoresis, Chromatography Proteins: Altered v. normal and cancerous
2 Small animals: Model cancer development
3 Storage
4 Cancer transplant room
5 Computers' room for data Conference room
6 Office
7 Security guard
8 Reception room
9 Vaccine Development Cancer Genetics of P1798 Model Lymphomas (S and R)
10 Chemical storage
11 Virology room; RNA and DNA
12 Human cancer tissue cultures Stem cells
13 Microbiology
14 Bathroom with shower and Storage
15 Office
16 Hall
17 Large Animals
18 Cage Washing Machine for Animals



LAMPKIN-ASAM CANCER INSTITUTE, INC.

FLOOR PLAN

APPENDIX F